



STATE OF MONTANA DEPARTMENT OF REVENUE JOB PROFILE

Working Title

Liquor Control Tax Counsel

Job Code Title

Lawyer

Pay Band

07

Job Code Number

231117

Liquor Control Division

Administrative Team

Fair Labor Standards Act

Exempt

The Montana Department of Revenue administers more than 30 state taxes and fees; establishes values for taxable property, including agricultural land, residential real estate, commercial real estate, forest land, business equipment, railroads and public utilities; supervises the operation of the state liquor stores and agencies and administers the laws governing the sale, taxation, and licensing of alcoholic beverages; and returns unclaimed property to its rightful owners.

The Liquor Control Division administers the state's Alcoholic Beverage Code, which governs the control, sale, and distribution of alcoholic beverages. The division provides customer service with a focus on public safety to ensure a safe, orderly, and regulated system for the convenient distribution and responsible consumption of alcoholic beverages. The Liquor Control Division includes the Administrative Team, Liquor Distribution Unit, and Liquor Licensing Bureau. The Administrative Team oversees the daily management of the division. This group of staff consists of the administrator, management officer, and division support staff.

Job Responsibilities

The Liquor Control Lawyer handles liquor control litigation in administrative proceedings before the Office of Dispute Resolution and on appeal in state district court and the Montana Supreme Court. This involves legal research, drafting of pleadings, conducting discovery and investigation, presentation of evidence to a court or a jury, participation in mediations and settlement conferences, and oral argument. These cases often involve complex fact patterns and/or constitutional challenges to state statutes, but may also involve more routine matters. The incumbent drafts rules and legislation on behalf of the Liquor Control Division. The position reports to the department's Chief Legal Counsel and does not supervise other staff.

- **Case Development and Presentation 45%**

This position represents the division before the Office of Dispute Resolution and the courts of Montana and the United States in complex cases. Such representation includes all aspects of litigation, which the attorney performs independently and may request assistance from other team members. Decisions impact future cases and may set precedent. The attorney is independently responsible for keeping the chief counsel and the division administrator fully informed of all aspects of the litigation.

1. Analyzes and evaluates facts and information from case files to gain understanding of each case, evaluate the strength of the state's legal position, and develop cases. Coordinates and oversees paralegals. Conducts follow-up factual investigation such as interviews, gathering additional documentary evidence, etc. as necessary.

2. Conducts oral depositions. Effectively uses all other discovery tools including requests for admission, interrogatories, and requests for production. Interviews all of the division's technical and expert witnesses, selects and interviews technical and expert witnesses from outside the agency, and evaluates witness testimony.
3. Prepares and manages documentary and other evidence to ensure compliance with federal and state laws, rules, and regulations. Selects, interviews, and prepares technical and expert witnesses.
4. Conducts settlement conferences to negotiate resolutions to legal disputes. Independently evaluates the division's prospects for success and the potential impact of success or failure on the future administration of the Alcoholic Beverage Code in Montana. Confers with the division administrator to determine a course of action.
5. Prepares pleadings. Conducts legal research. Drafts motions, responsive pleadings, briefs, and other written presentations. Develops case analyses and evaluation memoranda for clients. Prepares case-related correspondence. Prepares settlement memos and brochures. Reviews the district court record and drafts the state's brief on appeal to the Montana Supreme Court.
6. Appears and argues pre-trial motions. Presents the case to the court, including opening statements, questioning of lay and expert witnesses, cross-examination of witnesses, and closing arguments.
7. Appears and argues in the Montana Supreme Court in cases set for oral argument. Ensures clear, concise, polite, and persuasive presentations and responses to questions from the Court.
8. On occasion, this position is assigned to work on non-liquor matters for other divisions within the department such as representing the division on tax matters before courts, the state and county tax appeal boards, and administrative agencies.

- **Client Counseling and Advocacy 35%**

The incumbent serves as legal counsel to agency clients and advises agency on legal matters relating to diverse subjects, including but not limited to the Montana Alcoholic Beverage Code, contracts, personnel matters, ethics, and open meetings and other open government laws.

1. Conducts legal research and drafts legal memoranda and reports for issuance as opinions to client agencies. Drafts administrative rules, regulations, legislation, and related documents. The research will include all legal issues affecting the division and the division including tax law, administrative law and procedure, and alcohol and tobacco law.
2. Analyzes, evaluates, and interprets the Montana Alcoholic Beverage Code, tax laws, and other statutes affecting the agency and issues written opinions on these laws. These include complex laws that may have no prior interpretations of the law or applicable precedents for interpretation.
3. Provides legal advice and guidance to the director, deputy director, and division administrators on alcoholic beverage law and taxation issues; chief legal counsel and director on litigation strategy; and other agency staff on issues related to personnel, contracts, and other legal issues as directed by the chief legal counsel.
4. Provides regular and consistent legal advice to client agencies on various legal issues. This may involve specialized research and analysis of statutory and case law as well as evaluation of legal trends and judicial policies to provide sound legal counsel.
5. Presents oral testimony in favor of proposed legislation or administrative rules. May appear and argue motions in federal and state district courts. May try cases with relatively lower levels of complexity or potential exposure and assist with trial of more complex or higher exposure cases.

- **Administrative Rule and Statutory Analysis 10%**

1. Reviews proposed administrative rules to determine whether rules are consistent with legislative intent, properly implement statutes, and whether the division has statutory authority to adopt the proposed regulations. Prepares, evaluates, and interprets proposed legislation for the division upon request of chief legal counsel, director, deputy director, and division administrators.
2. Consults with the director, division administrators, and chief legal counsel regarding need for and basic purpose of administrative rules.

3. Represents the division at rules hearings.
4. Reviews the final division action on the rules to insure compliance with the Montana Administrative Procedure Act (MAPA).
5. Drafts legislation upon request of chief legal counsel and/or the director, deputy director, and division administrators.
6. Reviews proposed legislation drafted by division personnel and legislators. Recommends and drafts amendments to proposed legislation.
7. Upon the director's request, appears before legislative standing and interim committees to explain and clarify proposed legislation.
8. Alerts the chief legal counsel and/or director, deputy director, and division administrators to problems with existing laws and proposes possible changes.

- **Other Duties as Assigned 5 %**

1. Performs other duties as assigned by the supervisor.

Job Requirements

To perform successfully as a tax counsel, the incumbent must be self-motivated; possess a strong work ethic; maintain a positive attitude; and enjoy working with, and for, the public. It is essential that the incumbent has the ability to analyze situations and make decisions. Skills in legal research, methods, and strategy; multi-tasking; paying attention to details and accuracy; managing multiple priorities under tight deadlines; communicating effectively through writing, public speaking and editing; and word processing, spreadsheet, and database applications are required. The incumbent is required to conduct analyses and foresee potential problems; determining the best course of action; analyze complex issues; identify others' underlying concerns and motives; negotiate; deal with controversy and hostility in a professional and objective manner; and establish effective relationships with others. This position works with highly confidential financial and tax information and is required to maintain the highest level of confidentiality regarding all information acquired or used in performing this job.

The position requires extensive knowledge of Montana alcoholic beverage law, tax law, and tax cases; court and hearing rules and procedures including the Federal Rules of Civil Procedure, the Montana Rules of Civil Procedure, the Rules of Appellate Procedure, the Uniform District Court Rules and the Montana Administrative Procedure Act; court rules and trial procedures; judicial processes and procedures relative to administrative hearings and state and federal courts; bill drafting and legislation; civil litigation techniques and trial strategies; appellate court argument procedures and techniques; the Constitutions of Montana and the United States; and legal research methods and procedures. The position also requires knowledge of state and federal laws, case law, court rulings, constitutional provisions, research methods and techniques, and basic principles, practices and terminology relative to the specified areas of assignment and the operations of state government and administrative procedures.

- The minimum level of education and job-related work experience needed as a new employee **on the first day** of work is a completion of a juris doctorate degree from an accredited law school and three years of job-related work experience including at least one full year of experience with state tax litigation. Must be licensed to practice law in Montana.
 - Extensive experience in civil litigation outside of tax litigation is helpful and may substitute for tax litigation depending on the type and extent of the experience.
 - Other combinations of education and experience will be evaluated on an individual basis.

Department Core Values

- **Respect:** As a representative of the people of Montana, proceeds with the highest level of respect for the dignity of every person contacted through work. Without exception, all people are treated as equally as possible. The employee is a faithful steward of the resources provided to this agency by the citizens of Montana.

- **Integrity:** Conducts work honestly and makes decisions that establish a clear record that the department serves the public with integrity. Apologizes for mistakes and gives credit to others for their cooperation, work, and ideas in achieving positive results. Accountable for their actions and holds others accountable for theirs. Decisions and judgments achieve equity and justice for all parties involved including citizens and co-workers.
- **Productivity:** Consistently strives to minimize the waste of the department's financial, facilities, and human resources. Diligently works to improve the productivity and effectiveness of the work unit. Welcomes and encourages new ideas on improving the results of the department from the public, other officials, colleagues, and supervisors. Approaches work in a manner that builds goodwill, trust, and cooperation internally with other staff and externally with the public.
- **Teamwork:** Maximizes cooperation and teamwork when working with other employees, divisions, and other state agencies. Willing to work with others for the opportunity to learn from their ideas, talents, and knowledge. Seeks to resolve conflicts with other employees and work units in an open and respectful manner that reinforces teamwork. Celebrates the successes of others.

Working Conditions

This position has periods of high stress, often weeks at a time, due to critical projects with statutory deadlines, managing a heavy workload, the technical nature of the work, significance of decisions made, the challenging nature of contacts, controversial or adversarial situations, and conflicting priorities. As a department employee, the incumbent may come into contact with highly confidential financial and tax information and is required to maintain the highest level of confidentiality regarding all information acquired or used in performing this job. Work hours routinely exceed 40 hours per week. Minimal travel may be required some which will be out-of-state. A valid Montana driver's license is required. This position requires considerable computer and keyboard use. The incumbent may spend considerable time on the phone. Lifting is infrequent, less than 15 pounds and includes carrying light items such as papers and books. This job requires regular attendance as scheduled by the supervisor. This job cannot be performed at an alternate work site.

Special requirements

- **Background Examination:** Applicants for this position will be subject to a criminal background review before being considered for employment. Individual circumstances involving a criminal conviction will be reviewed to determine an applicant's eligibility for employment.
- **Compliance with All Appropriate Montana Tax Laws:** An employee's tax status must be current.

This job profile was produced by the Office of Human Resources in conjunction with the appropriate managers.

Division Administrator Review: The statements in this job profile are accurate and complete.

Signature: C.A. Daw, Chief Legal Counsel Date: August 2010

Human Resource Director Review: The Office of Human Resources has reviewed this job profile.

Signature: JeanAnn Scheuer, Human Resources Director Date: August 2010

Employee: My signature below indicates I have read this job profile and discussed it with my supervisor.

Signature: _____

Date: _____

Name (print): _____